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# ENVIRONMENTAL ASSESSMENT BOARD

**VOLUME:** 324

**DATE:** Tuesday, September 3, 1991

**BEFORE:**

A. KOVEN Chairman

E. MARTEL Member

**FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249**

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the  
Honourable Jim Bradley, Minister of the  
Environment, requiring the Environmental  
Assessment Board to hold a hearing with  
respect to a Class Environmental  
Assessment (No. NR-AA-30) of an  
undertaking by the Ministry of Natural  
Resources for the activity of timber  
management on Crown Lands in Ontario.

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Hearing held at the offices of the Ontario  
Highway Transport Commission, Britannica  
Building, 151 Bloor Street West, 10th Floor,  
Toronto, Ontario, on Tuesday, September 3rd,  
1990, commencing at 1:00 p.m.

-----  
VOLUME 324

BEFORE:

MRS. ANNE KOVEN  
MR. ELIE MARTEL

Chairman  
Member



A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	
MS. C. BLASTORAH )	MINISTRY OF NATURAL
MS. K. MURPHY )	RESOURCES
MR. B. CAMPBELL )	
MS. J. SEABORN )	MINISTRY OF ENVIRONMENT
MS. N. GILLESPIE )	
MR. R. TUER, Q.C. )	
MS. E. CRONK )	ONTARIO FOREST
MR. R. COSMAN )	INDUSTRIES ASSOCIATION
MR P. CASSIDY )	
MR. R. BERAM	ENVIRONMENTAL ASSESSMENT BOARD
MR. E. HANNA )	ONTARIO FEDERATION OF
DR. T. QUINNEY )	ANGLERS & HUNTERS AND
MR. D. HUNTER )	NISHNABE-ASKI NATION
MR. M. BAEDER )	and WINDIGO TRIBAL COUNCIL
MS. M. SWENARCHUK )	FORESTS FOR TOMORROW
MR. R. LINDGREN )	
MR. D. COLBORNE )	GRAND COUNCIL TREATY
MR. G. KAKEWAY )	#3.
MR. CHRIS REID	ONTARIO METIS & ABORIGINAL ASSOCIATION
MR. J. ANTLER	NORTHERN ONTARIO TOURIST OUTFITTERS ASSOCIATION
MS. M. HALL	KIMBERLY-CLARK OF CANADA LIMITED and SPRUCE FALLS POWER & PAPER COMPANY
MR. R. COTTON	BOISE CASCADE OF CANADA LTD.



APPEARANCES: (Cont'd)

MR. Y. GERVAIS	)	ONTARIO TRAPPERS
MR. R. BARNES	)	ASSOCIATION
MR. L. GREENSPOON	)	NORTHWATCH
MS. B. LLOYD	)	
MR. J.W. ERICKSON, Q.C.)		RED LAKE-EAR FALLS
MR. B. BABCOCK	)	JOINT MUNICIPAL COMMITTEE
MR. D. SCOTT	)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR	)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL		GREAT LAKES FOREST
MR. S.M. MAKUCH		CANADIAN PACIFIC FOREST PRODUCTS LTD.
MR. D. CURTIS	)	ONTARIO PROFESSIONAL
MR. J. EBBS	)	FORESTERS ASSOCIATION
MR. D. KING		VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY



APPEARANCES: (Cont'd)

MR. R.L. AXFORD

CANADIAN ASSOCIATION OF  
SINGLE INDUSTRY TOWNS

MR. M.O. EDWARDS

FORT FRANCES CHAMBER OF  
COMMERCE

MR. P.D. McCUTCHEON

GEORGE NIXON

MR. C. BRUNETTA

NORTHWESTERN ONTARIO  
TOURISM ASSOCIATION



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1            ----Upon commencing at 1:10 p.m.

2                   MADAM CHAIR: Good afternoon. Please be  
3 seated.

4                   Thank you very much for coming this  
5 afternoon. We had scheduled this date previously in  
6 Thunder Bay to hear submissions about the scheduling of  
7 the case by the Ontario Federation of Anglers & Hunters  
8 and the Northern Ontario Tourist Outfitters Association  
9 who are forming a coalition to present their evidence  
10 to the Board.

11                  The Board has a list of issues it would  
12 like to canvass during this session but, before I do  
13 that, the Board has something to say about not hearing  
14 the evidence of the Ontario Metis and Aboriginal  
15 Association.

16                  We were scheduled in Thunder Bay for the  
17 week to hear that evidence. Mr. Pascoe had been given  
18 some warning, I believe on Friday, that a situation had  
19 arisen in which the counsel, Mr. Chris Reid, and  
20 witnesses for his first panel were involved in some  
21 business in northern Ontario and Mr. Reid didn't know  
22 at that point if he could produce his witnesses for  
23 today or not.

24                  Mr. Reid was subsequently contacted by  
25 counsel for the Board, Mr. Ron Beram, and had repeated

1 discussions with Mr. Pascoe, and the gist of it is OMAA  
2 has not adhered to its schedule to begin its case, and  
3 the Board is notifying OMAA that it has scheduled five  
4 hearing days left, the 11th, 12th, 13th, 16th and 19th  
5 of September, we hope that they will begin their  
6 evidence as scheduled. And with respect to any  
7 evidence they might have remaining over these five  
8 days, the Board will decide when and where and if it  
9 will hear the rest of OMAA's case.

10                   The Board has not addressed OMAA's  
11 request to add a possible fifth panel of evidence to  
12 its case and we won't be giving leave to that of course  
13 until these other matters are sorted out.

14                   An additional comment about the OMAA  
15 situation is that the Board will not reschedule or  
16 change the schedule to hear NAN's evidence. They will  
17 begin in September, on September 25th, and end on  
18 October 17th as scheduled originally.

19                   Have any of the parties today heard  
20 anything more recent with respect to Mr. Reid's  
21 situation?

22                   (no response)

23                   All right. Before we begin this  
24 discussion on the schedule of OFAH's case, I might  
25 quickly go through the matters that the Board wishes to

1 have addressed today.

2                   Obviously we're in receipt of Mr. Hanna's  
3 letter of August the 26th in which he proposes a new  
4 schedule for his client's case and before making a  
5 ruling on that schedule the Board wanted to satisfy  
6 itself on a number of matters.

7                   The first matter had to do with whether  
8 Mr. Hanna's proposed schedule in any way is seen as  
9 being unfair or prejudicial to any of the other parties  
10 at the hearing.

11                  Secondly, we wanted to get some better  
12 idea of who the witnesses will be for the OFAH.

13                  For example, if many of the coalition's  
14 witnesses will be OFAH staff and experts who presumably  
15 worked on developing the terms and conditions for the  
16 Ontario Federation of Anglers & Hunters, then the Board  
17 would have some reassurance that the preparation time  
18 proposed by Mr. Hanna for his case might be adequate.

19                  If he is proposing to bring witnesses who  
20 are new to the hearing and haven't been involved so  
21 far, then the Board might have some concerns that they  
22 couldn't be ready in time.

23                  There is also the outstanding issue of  
24 Jack Ward Thomas. Mr. Hanna and the other parties were  
25 making a strong case to the Board some months ago that

1 Dr. Thomas is someone the Board should really hear from  
2 and we would like to know from Mr. Hanna if it is his  
3 intention to call Dr. Thomas or, as he had mentioned  
4 earlier, whether he might be asking the Board to call  
5 Dr. Thomas as a witness. We would like to get that  
6 cleared up.

7 Mr. Beram, our counsel, wrote a letter to  
8 Mr. Hanna recently, the date of that letter was August  
9 28th, and in the letter Mr. Beram had asked Mr. Hanna  
10 if he could give the Board some reassurance that the  
11 coalition's case is in a sufficiently advanced state of  
12 preparation that they could indeed meet the starting  
13 deadline of January, and the Board is hopeful that Mr.  
14 Hanna would be able to provide some reassurance to that  
15 effect.

16 In addition, the Board wishes to discuss  
17 with Mr. Hanna whether an involvement of Mr. Beram with  
18 respect to assisting the coalition might be welcome by  
19 it. The Board has been considering the idea that  
20 perhaps Mr. Beram could provide advice to the coalition  
21 with respect to scheduling and expediting their case,  
22 where they would see fit to call on Mr. Beram for that  
23 purpose, and if that would be of some assistance to the  
24 OFAH, then the Board would be willing to discuss that  
25 possibility.

1                   In addition, such an association might  
2 provide the Board with some signal that we are on  
3 schedule, that the case indeed will be starting on  
4 whatever schedule is finally agreed upon.

5                   Another issue the Board wanted to canvass  
6 with the parties today is, if the Board were to agree  
7 to Mr. Hanna's schedule at the beginning of January, do  
8 the parties have some useful suggestions with respect  
9 to how the month of November and into December could be  
10 usefully used by the Board.

11                  Some ideas that have come to Mr. Pascoe  
12 include going ahead earlier than planned with the  
13 Ottawa public hearing. We obviously will have to  
14 consider whether we want to hear any more evidence from  
15 OMAA, and perhaps the evidence of Dr. Thomas might be  
16 considered in that time period that will become  
17 available should the Board agree to the proposed  
18 schedule of the OFAH and NOTO.

19                  Another area the Board wishes to discuss  
20 today - and this is not only with respect to the  
21 coalition's case but with respect to all parties and  
22 the remainder of the hearing, and that includes reply  
23 evidence and arguments by the parties - and, that is:  
24 What sort of action should the Board be considering  
25 with respect to obliging parties to adhere to set

1       schedules and deadlines, what recourse does this Board  
2       have in the absence of the power to award costs to  
3       convince parties that the best thing for them to do is  
4       to adhere to our time schedules.

5                   At the end of this session we will be  
6       instructing Mr. Beram to put together a report for the  
7       Board on various options that the Board might have  
8       available to it under various pieces of legislation,  
9       and we're going to ask Mr. Beram to circulate his  
10      advice to the Board and to the other parties for their  
11      input before the Board considers which, if any, of Mr.  
12      Beram's pieces of advice it might wish to follow.

13                  On a final matter, the Board wishes to  
14       hear from Mr. Hanna on when his clients, as represented  
15       by Mr. Richard Morgan and Mr. James Grayston could  
16       appear before the Board. The Board has asked for Mr.  
17       Hanna's clients to come to the hearing and talk to us  
18       because we're still a bit unsure about whether the  
19       coalition will definitely be proceeding with its case.  
20       It wasn't clear from Mr. Hanna's letter of August the  
21       26th whether the financial burden he identified is  
22       still a consideration with respect to the coalition  
23       proceeding with its case.

24                  On page 2 Mr. Hanna informs us that they  
25       are still scrambling to find additional funds to make

1 up for the intervenor funding shortfall. The Board was  
2 hopeful that Messrs. Morgan and Grayston might be able  
3 to reassure us that indeed funding was no longer -  
4 funding is always a problem, not that funding was no  
5 longer a problem, the Board is very appreciative of Mr.  
6 Hanna's complaints in that respect - but that funding  
7 would not prevent them from getting their case started  
8 some time in January and completing it.

9 On a related matter the Board certainly  
10 applauds the coalition's attempt to streamline hearing  
11 evidence by joining forces and our question about the  
12 durability of the coalition as posed by Mr. Beram in  
13 his letter was not meant to be construed as being  
14 critical of the coalition. The Board simply wants,  
15 again, reassurance that the coalition is prepared to  
16 proceed with its case, that they can make the deadlines  
17 they have proposed, and that the commitment to proceed  
18 is a very solid one.

19 That is our list of matters that we want  
20 to get through this afternoon. The parties might be  
21 prepared to address some of those today. We have not  
22 set a date for making our ruling on the scheduling of  
23 OFAH's case because we wanted to clarify these various  
24 matters with the coalition, and I am glad to see that  
25 Mr. Hanna is here today, and the Board will be

1       instructing Mr. Beram after this session to get in  
2       touch with Mr. Morgan and Mr. Grayston to see whether  
3       they will be appearing before the Board to make any  
4       submissions in this regard as well.

5                   So, Mr. Hanna, do you wish to start  
6       addressing some of these matters or would you like the  
7       Board to canvass various of these matters with the  
8       parties to start with?

9                   MR. HANNA: Madam Chair, looking at the  
10      list of issues that you've raised, it would seem to me  
11      premature to discuss the details if there's other  
12      parties here that feel that the schedule is unfair or  
13      prejudicial to their position. So I think that has to  
14      be dealt with first, and then we can deal with the  
15      other issues you have raised.

16                  MADAM CHAIR: Thank you, Mr. Hanna, it's  
17      a good suggestion.

18                  Why don't we start with Forests for  
19      Tomorrow. We have in our possession a letter from Mr.  
20      Lindgren dated August the 21st.

21                  Mr. Lindgren, do you have anything to add  
22      in your letter with respect to the difficulties of any  
23      changes in scheduling to the OFAH's case as proposed by  
24      Mr. Hanna?

25                  MR. LINDGREN: Just very briefly, Madam

1 Chair. When I wrote the letter on August 21st I, of  
2 course, did not have any idea what the proposed  
3 schedule would be. Since that time we, of course, have  
4 received Mr. Hanna's letter dated the 26th. I believe  
5 that Ms. Swenarchuk has some further comments on the  
6 issue of potential prejudice.

7 MS. SWENARCHUK: Madam Chair, I'm not in  
8 a position to address today all of the issues that you  
9 have raised, particularly those having to do with the  
10 Board's options to enforce future compliance amongst  
11 parties. I just wanted to make a few brief statements  
12 with regard to the scheduling of the OFAH case.

13 The first is to correct the record. In  
14 Mr. Hanna's letter of August 30th at the bottom of the  
15 second page he has indicated that Forests for Tomorrow  
16 were repeatedly late in submitting their witness  
17 statements and interrogatory responses, et cetera, and  
18 that is factually inaccurate.

19 The delivery of some interrogatory  
20 responses were late, that's correct. In some cases the  
21 delivery to us of OFAH interrogatories was late, but  
22 there was no lateness in the delivery of any of FFT's  
23 witness statements. I just want to make that clear.

24 It's the position of FFT that granting  
25 the adjournment that Mr. Hanna is requesting is not in

1 the interest of the hearing or of the parties to the  
2 hearing. It's our position that our interests are best  
3 served by moving this hearing ahead as quickly as  
4 possible.

I might just add to that that every party, in my experience, must take into account its funding availability in planning its case. Had more funds been available for Forests for Tomorrow, we had at least another ten topics that we wished to address. We were required to operate and to plan our case in accordance with the funds that were available to us and, frankly, we have never accepted the OFAH position that a certain amount of money is necessary for it to present a case.

21 The amount of funding available to the  
22 Federation from the recent funding panel decision is a  
23 matter of record and it would be our view that it's  
24 necessary for them as a party, as for every other  
25 party, to simply plan their case in accordance with the

1 funds available.

2 We are very concerned with the continual  
3 delays possible here and we're particularly concerned  
4 that delaying the commencement of their case until  
5 January may be one delay and that future delays may  
6 also occur.

7 Other options certainly exist for a party  
8 facing the funding problem, such options as planning a  
9 smaller number of panels that can be mounted with the  
10 funds available with the possibility, should the Board  
11 agree, of mounting later panels should additional  
12 funding become available during the term of the first  
13 presentation of evidence.

14 Those are the kinds of possibilities that  
15 I think other parties might look at here, but the  
16 argument that we may or may not present a case because  
17 we have limited funding, to Forests for Tomorrow, is  
18 not a reasonable argument for a delay in the entire  
19 hearing process.

20 Our submission is that the case be  
21 planned in accordance with the funds available and in  
22 accordance with the Board's deadlines for presenting  
23 it, and that that be the opportunity given to this  
24 party as to other parties.

25 MADAM CHAIR: Do any of the other parties

1 wish to address the issue of whether there is something  
2 unfair or prejudicial to their clients with respect to  
3 a postponement in the beginning of OFAH's case beyond  
4 the November date?

5 Mr. Freidin?

6 MR. FREIDIN: I would just like to  
7 indicate that Ms. Swenarchuk does not speak for the  
8 proponent when she says: In the view of Forests for  
9 Tomorrow it's not in the interest of the parties for an  
10 adjournment.

11 The proponent has no objection to the  
12 scheduling proposed. The proponent does not feel that  
13 it will be prejudiced by the schedule being proposed  
14 and, as it has always been the prime objective of the  
15 proponent, it still is, that the parties present clear  
16 and helpful evidence to the Board, and if the Board is  
17 convinced that an adjournment is necessary for that  
18 purpose then, in my view, an adjournment should be  
19 granted.

20 MADAM CHAIR: Mr. Cassidy?

21 MR. CASSIDY: Madam Chair, with respect  
22 to this application, the possible prejudice that has  
23 been identified by my client is with respect to two of  
24 the interrogatory and -- I'm sorry, two of the due  
25 dates for the witness statements, interrogatory due

1                   dates that Mr. Hanna sets out.

2                   I'm prepared to make submissions on that  
3                   now, not in relation to the application for the  
4                   postponement, but what might flow from that should the  
5                   Board grant that.

6                   MADAM CHAIR: Why don't you tell us what  
7                   problems you have with that, Mr. Cassidy?

8                   MR. CASSIDY: The due dates for the first  
9                   two witness statements are within a week of each other  
10                  and, in fact, within a week of the third witness  
11                  statement proposed to be delivered by the Anglers &  
12                  Hunters.

13                  And, as the Board knows, there are  
14                  detailed rules that exist for the delivery of  
15                  interrogatories within time frames. They have been  
16                  abridged here somewhat by Mr. Hanna in his proposal  
17                  and, while we have some understanding of that, in the  
18                  context of this proposal it is going to be problematic  
19                  for us in the absence of seeing what these witness  
20                  statements are to deal with three witness statements  
21                  within that very short period of time.

22                  And what we are proposing is that if this  
23                  proposed schedule is approved by the Board that one of  
24                  the first two witness statements be moved up one week  
25                  for the delivery date to give us one extra week to

1 review that witness statement. I'm suggesting the  
2 first one be moved up to October 14th or thereabouts.

3 With respect to the other dates, they're  
4 all very close, it's just going to cause not only us,  
5 but I suspect others, some very real difficulties in  
6 meeting deadlines, but we're prepared to try and work  
7 with that, but the first one is going to be a real  
8 problem. And that is the possible prejudice that has  
9 been identified.

10 MADAM CHAIR: Thank you, Mr. Cassidy.

11 Ms. Seaborn?

12 MS. SEABORN: Yes, thank you, Madam  
13 Chair.

14 Our position with respect to the  
15 adjournment application is really tied to what the  
16 Board has identified as its sixth issue, I believe, and  
17 that was the issue of: What could the Board usefully  
18 do in the months of November and December if the  
19 application were granted. I would like to speak to  
20 that issue and I will when that item is reached.

21 With respect to the issue though that  
22 you've raised, it's our position that we can certainly  
23 relax the interrogatory process in relation to  
24 questions to suit Mr. Hanna's schedule and, in fact,  
25 we're quite prepared to facilitate that process if

1       there was a possibility of Mr. Hanna calling his first  
2       witness statement prior to Christmas based on his  
3       schedule, which I believe has his first witness  
4       statement being delivered at the end of October.

5                   And our position is, really, we are  
6       prepared to do whatever we can to move the hearing  
7       along. We will speed up our review in these  
8       circumstances, and that we think the adjournment  
9       request should also be looked upon in terms of what  
10      could usefully be done in the intervening weeks should  
11      the Board grant the adjournment so that we don't have a  
12      lot of downtime and try and save some time at the end  
13      of the day.

14                  MADAM CHAIR: Thank you.

15                  Excuse me. Mr. Hunter, did you have  
16      anything to say on this matter?

17                  MR. HUNTER: I certainly think that we --  
18      on prejudice, I think in the circumstances, we take no  
19      position at this time.

20                  MADAM CHAIR: Mr. Hanna, do you wish to  
21      begin your submissions with respect to some of the  
22      issues that the Board has raised, and I believe the  
23      first one was the item of: Which witnesses would you  
24      would be calling in your case, are they identified, and  
25      do you have anything to report to the Board with

1 respect to the state of preparedness of your case?

2 MR. HANNA: Madam Chair, in our  
3 submissions to the intervenor funding panel we provided  
4 to the hearing panel detailed descriptions of the  
5 witness panels that we were proposing to call and  
6 identified the witnesses that we are intending to call  
7 at that time.

8 There has been some minor changes. There  
9 are several witnesses, I recall, in areas that we are  
10 still pursuing, but basically what was submitted at the  
11 intervenor funding panel is where we stand at the  
12 present time in terms of witnesses who have been  
13 subpoenaed.

14 In terms of the composition of the  
15 witnesses relative to staff versus retained  
16 consultants, I believe you'll see that on I believe - I  
17 may be corrected on this - three of the 10 panels that  
18 are being proposed to be called at the present time are  
19 comprised of OFAH or NOTO staff or members of the  
20 organizations.

21 In terms of preparedness, I appreciate  
22 the Board's differentiating between OFAH staff and what  
23 might be termed new witnesses, witnesses not familiar  
24 with the hearing itself, it is something that we had  
25 anticipated some time ago and, in keeping with that, we

1 have prepared detailed cross-referencing associated  
2 with panels with terms and conditions and witness  
3 statements, cross-examinations, and all of the various  
4 proceedings of the hearings.

5 That information has, over the summer,  
6 had two people working on it putting that in a form  
7 that will be available to the witnesses.

8 However, in making these statements I  
9 think it's imperative that the Board understand that  
10 the situation of the coalition's case has been in limbo  
11 and I think I set that out very clearly in the letter  
12 that I originally sent to you requesting leave for a  
13 new schedule for the hearing.

14 That situation still exists to a certain  
15 extent, as you have drawn attention to, that the  
16 coalition is scrambling for funds, it's not a dead  
17 issue at the present time.

18 The directions I have been given at this  
19 time is to proceed with preparing a case, but I can  
20 tell you that it's also on the agenda of both boards to  
21 review that position early in this month.

22 I can't provide you with any further  
23 elucidation at this time until I receive directions  
24 from the boards. All I can tell you is that there is  
25 very serious options being considered and I'm awaiting

1 instructions.

2 MADAM CHAIR: Mr. Hanna, it hasn't been a  
3 practice of this panel to read intervenor funding  
4 decisions. Are you suggesting that we go into the most  
5 recent intervenor funding decision and read it  
6 thoroughly and pull out the details on what you're  
7 proposing with respect to witnesses and the evidence  
8 you're proposing to bring by each witness panel?

9 MR. HANNA: Madam Chair, it's in the same  
10 form. I am quite prepared to send that to the Board,  
11 if that would be of assistance.

12 Because of the way it had been presented  
13 I thought it was fairly was straightforward, but if it  
14 isn't presently available to the Board, I would  
15 certainly be prepared to put that together and submit  
16 it to you.

17 MADAM CHAIR: Well, we can certainly get  
18 it and go through it very carefully and pull out that  
19 evidence. But are we to understand that as of today  
20 you are proposing 10 witness panels, and how many  
21 witnesses?

22 MR. HANNA: I'm sorry, I don't have that  
23 number right at the moment.

24 MADAM CHAIR: And are we to understand  
25 further that in the next few weeks the coalition could

1       decide not to participate in the hearing or to change  
2       its participation with respect to proceeding with its  
3       own case.

4                    MR. HANNA: Yes.

5                    MADAM CHAIR: And what is the date of the  
6        meeting where this will be decided?

7                    MR. HANNA: The one meeting will be  
8        occurring next week and the other meeting of the board  
9        of directors I believe is shortly thereafter.

10                  MADAM CHAIR: Assuming, Mr. Hanna, that  
11       the final decision of the coalition is that it wishes  
12       to put in a case, what can you tell the Board with  
13       respect to the preparations that you have made to  
14       ensure that this case would meet the deadlines that  
15       you're proposing?

16                  MR. HANNA: Madam Chair, I am at a loss  
17       to what more I could tell you.

18                  MADAM CHAIR: How confident are you that  
19       if the Board should agree to a request to delay the  
20       presentation of your evidence to January that you  
21       would, in fact, be ready to go ahead at that time and  
22       that you could stick to the schedule you have proposed?

23                  MR. HANNA: That's a very difficult  
24       question for me to answer. The reason I say that, as  
25       I'm sure you can appreciate, many of these matters are

1 out of my control; I'm not making those decisions,  
2 those are decisions that are made by my clients in  
3 terms of what priorities they want to put on this and  
4 how much money and staff they're willing to allocate to  
5 it.

6 I have put forward to you a proposal that  
7 I believe is doable, but I would not underestimate that  
8 it's going to require an extraordinary effort. The  
9 nature of that effort is one of the reasons that the  
10 boards of the coalition are reviewing the whole issue.

11 I have made it very clear to them that  
12 this is not an easy task, that it is going to require a  
13 substantial amount of their own finances above and  
14 beyond what has been received from intervenor funding  
15 and, because of the short time that's involved and the  
16 deadlines that the coalition is facing, that it is  
17 probably going to be an even more expensive exercise  
18 than they had originally anticipated.

19 That's the information I've given to  
20 them, that's the information that is being considered  
21 by those boards. What their decision will be, I  
22 obviously have no basis to judge.

23 I do believe that if the resources that  
24 are necessary are brought to bear it can be done, but  
25 only under those circumstances, and whether that will

1 happen I can't say at this time.

2                   All I can tell you, Madam Chair, is that  
3 the resources that have been made available by the  
4 intervenor funding are not adequate to put the case in  
5 in either in its form or schedule that is presently  
6 being proposed, and that's the question the coalition  
7 has to consider.

8                   MADAM CHAIR: While you're on your feet,  
9 Mr. Hanna, do you see any useful purpose that could be  
10 served by having Mr. Beram's assistance with respect to  
11 scheduling and helping the coalition expedite its case  
12 should a decision be made that the case will go ahead?

13                  MR. HANNA: Madam Chair, I would have to  
14 get instructions from my client. I wouldn't be in a  
15 position to provide useful comment. It would be very  
16 much a matter of how they see that type of assistance  
17 might be used.

18                  At this time it's not exactly clear to me  
19 what Mr. Beram's role might be. All I can say to you  
20 is that I can say, without consulting with the  
21 coalition, they would be happy for any assistance that  
22 they could muster, either financial or in terms of  
23 personnel, but I am not sure of the actual role Mr.  
24 Beram would play in that respect.

25                  MADAM CHAIR: Well, the Board and Mr.

1       Beram aren't sure what that role would be either, but  
2       if there were some room for the Board to assist you  
3       with moving your case along as quickly as possible,  
4       then we would be most happy to do that.

5                    MR. HANNA: And I am sure the coalition  
6       would be most appreciative of such assistance, Madam  
7       Chair.

8                    MADAM CHAIR: Before we go back to some  
9       of the scheduling issues, the Board would like to know  
10      why Mr. Morgan and Mr. Grayston were unable to attend  
11      today?

12                  MR. HANNA: I'm sorry, I don't -- they  
13      basically said they were not able to attend, in  
14      particular, Thunder Bay. They didn't find out about  
15      this meeting -- in fact, I didn't find out about this  
16      meeting in Toronto until eleven o'clock today, so that  
17      it was very short notice.

18                  I didn't even have a chance to talk to  
19      them, I basically had to come from out of town for this  
20      meeting and I hadn't even talked to Mr. Grayston or Mr.  
21      Morgan today, but I know they couldn't be in Thunder  
22      Bay and that was what they provided to me and I cannot  
23      provide any reasons for that.

24                  MADAM CHAIR: All right. Perhaps, Mr.  
25      Hanna, what we will do is canvass the parties with

1 respect to how the hearing schedule can be rearranged,  
2 whether to accommodate a delay in the beginning of your  
3 case or, in the event that the coalition does not make  
4 a case, how the entire schedule can be reworked and  
5 you, Mr. Hanna, are free to comment or you can wait  
6 until the end, if you wish.

7                   Ms. Seaborn, you said you had some  
8 comments with respect to seeing this hearing through to  
9 the end?

10                  MS. SEABORN: Yes, Madam Chair. I think  
11 you had identified actually in your opening remarks the  
12 ideas that my clients had with respect to filling the  
13 time.

14                  As I understand it from Mr. Pascoe,  
15 there's only one party scheduled at the moment to  
16 present its case in Ottawa, that is the Moslin Group  
17 and, subject to how many people would react to a public  
18 notice in the newspapers or mailed notices at that  
19 location, it's my client's suggestion that perhaps the  
20 Ottawa satellite hearing could be scheduled for some  
21 time late November, early December, taking into account  
22 I believe the proponent has 60 days within which to  
23 give notice and obviously MNR would require some time  
24 to make those arrangements.

25                  We would certainly support any suggestion

1       of having Mr. Thomas appear during that period. That  
2       is not something that we have been involved in so I  
3       don't have any particular preference in that regard.

4                  With respect to OMAA, Mr. Reid did  
5       indicate in his correspondence that he thought his  
6       fifth witness statement - should the Board be disposed  
7       to hear that evidence - would be ready by late October,  
8       and subject again to the parties being able to review  
9       that more quickly than would be the normal course, it  
10      would be my client's suggestion that perhaps a final  
11      panel - should the Board be disposed to hear it - could  
12      be heard in early December, so assuming again that Mr.  
13      Reid can have that filed by the end of October.

14                  I'm sorry, I don't have the date of that  
15       correspondence but there was some indication from Mr.  
16       Reid that late October was when that witness statement  
17       can be ready. So we would certainly suggest that that  
18       could be used as well.

19                  MADAM CHAIR: Excuse me. Did the parties  
20       receive a copy of Mr. Reid's fax received by the Board  
21       today?

22                  MR. CASSIDY: No.

23                  MADAM CHAIR: All right. There are extra  
24       copies here for the parties. It looks like it might  
25       have been planned to be a two-page fax but we just have

1       one.

2                   Ms. Seaborn, have you given any thought  
3       to whether the Toronto satellite hearing could be done  
4       before Christmas as well?

5                   The Board has committed itself to doing a  
6       satellite hearing in Toronto. Mr. Pascoe has been  
7       scheduling some parties to appear in Toronto, but  
8       perhaps that can be done separately. The Board doesn't  
9       have any sense at this point of what the turnout would  
10      be at a public meeting in Toronto, we would ask the  
11      parties if they have any sense of that?

12                  MS. SEABORN: I had understood that there  
13      were maybe five parties on the list at the moment who  
14      had indicated a preference to call their evidence in  
15      Toronto. I don't know what communication Mr. Pascoe  
16      has had with them in terms of their state of readiness  
17      to go ahead over the next several weeks.

18                  MADAM CHAIR: Well, it wouldn't be a  
19      matter of pushing those parties ahead so much as doing  
20      the public submission stage of the Toronto satellite  
21      hearing.

22                  MS. SEABORN: Yes. In terms of putting  
23      out the notices and the normal procedures for a  
24      satellite hearing, I think that's a very sensible idea  
25      and, I suppose to the extent that those smaller parties

1       were quite happy to go ahead, the Board may also be  
2       able to schedule their appearances at the same time and  
3       then have a wrap-up in Toronto at a later time next  
4       year, but certainly we would support any arrangements  
5       that can be made in that regard.

6                     MADAM CHAIR: Do any of the other parties  
7       have any comments about changing the schedule of the  
8       hearing with respect to moving up certain aspects of  
9       the hearing before Christmas of this year?

10                  MS. SWENARCHUK: We have nothing to add  
11       to Ms. Seaborn's contributions, Madam Chair.

12                  We might just add the information that --  
13       we received an indication that there is quite a large  
14       number of individuals who wish to appear at the Toronto  
15       public hearing.

16                  MADAM CHAIR: A large number of  
17       individuals. Do you mean that would take longer than  
18       three or four days?

19                  MS. SWENARCHUK: No, probably not.

20                  MADAM CHAIR: Okay, thank you.

21                  MS. SWENARCHUK: To our knowledge at this  
22       time.

23                  MADAM CHAIR: Ms. Seaborn, in the event  
24       that the coalition does not present a case, how quickly  
25       will your clients be ready to present your case?

1 MS. SEABORN: I think I would have to go  
2 back and speak to them about that, Madam Chair. What I  
3 would suggest is that after the Board makes its  
4 determination in relation to the OFAH request, that we  
5 would come back with a proposal to the Board in that  
6 regard.

7 As you're aware, the current order has us  
8 filing our evidence within two months of the last  
9 witness statement of the OFAH being filed.

10 MADAM CHAIR: Mm-hmm.

11 MS. SEABORN: And taking into account the  
12 orderly flow of the hearing, I think we would have to  
13 come back to the proposal that would, of course, reduce  
14 any loss in hearing time to the greatest extent  
15 possible.

16 MADAM CHAIR: Thank you.

17 Mr. Cassidy and Mr. Freidin, given the  
18 possible scenario that the coalition will not present  
19 its case, we would see an acceleration of four months  
20 in the hearing schedule.

21 How long will it take you to prepare your  
22 reply evidence and where are you with respect to  
23 preparation of that stage of the hearing?

24 MR. CASSIDY: As was indicated, I believe  
25 by my colleague Mr. Cosman, our reply would be

1       relatively short, at least in comparison to the  
2       Ministry's. The process of getting that material  
3       together is underway and if the hearing were expedited  
4       in that format with that time frame we would do  
5       everything possible to have it even further expedited,  
6       and I anticipate that we will be able to meet that, so  
7       that there will be no disruption to the hearing,  
8       barring some unforeseen difficulty which I would advise  
9       the Board of at the earliest opportunity.

10                  I do not anticipate that we would be any  
11       longer than what we originally estimated and we're  
12       trying to go through a process of, in fact, reducing  
13       that from, I believe a three-week estimate, if that's  
14       what it was --

15                  MADAM CHAIR: I think the last thing Mr.  
16       Cosman said was probably a week.

17                  MR. CASSIDY: I apologize, a week. And  
18       so we will do our best to even reduce that, if we can.

19                  MADAM CHAIR: Thank you, Mr. Cassidy.

20                  Mr. Freidin?

21                  MR. FREIDIN: Well, reply evidence, you  
22       know, we have begun the process of putting together.  
23       You will appreciate that we are engaged in a number of  
24       activities in relation to this hearing all at the same  
25       time and our timing for the preparation of reply

1       evidence, in fact, took into account an anticipated  
2       case by Ontario Federation of Anglers & Hunters.

3                   So the hypothetical that you pose of the  
4       OFAH not calling a case would cause considerable  
5       difficulty in terms of us meeting or compressing that  
6       schedule for the preparation of reply evidence in any  
7       substantial way. That's my assessment at the moment.

8                   We are working on it as much as we can.  
9       If the OFAH case does not go ahead or if the coalition  
10      case does not go ahead, we will of course do whatever  
11      we can to accelerate that process, but I'm in no  
12      position today to indicate by how much we could  
13      compress the time frame that has been set aside for  
14      preparing that evidence at the present.

15                  MADAM CHAIR: Well, I think all the  
16      parties should be put on notice by Mr. Hanna's remarks  
17      that the possibility that his clients won't be going  
18      ahead with a case should be taken very seriously by the  
19      parties and that the Board will, in that case, not  
20      stick to its schedule of hearing argument, the last bit  
21      of oral argument next December the 2nd. I think you  
22      can pretty well count on the fact that we will push the  
23      hearing up by as much time as would be made available  
24      by not hearing OFAH's case.

25                  So I suggest that plans with respect to

1 preparing reply evidence, in the case of Mr. Cassidy  
2 and Mr. Freidin's clients, and argument by all the  
3 parties, I think you better put a new scheduling factor  
4 into your preparations.

5 MR. FREIDIN: I take it, Madam Chair,  
6 that should the coalition case not proceed and the  
7 Board wished to reschedule certain things, that we will  
8 have an opportunity to speak to the Board at that time?

9 MADAM CHAIR: Well, you will, Mr.  
10 Freidin, but the Board will certainly be very adamant  
11 that if we don't hear the coalition case - and we are,  
12 of course, very hopeful that we will - but if for some  
13 reason that won't happen, that time won't be left  
14 unused, this hearing will be over well in advance of  
15 the date that's set right now.

16 MR. FREIDIN: Well, I would just ask that  
17 the Board allow me to make submissions regarding any  
18 reduction in the time frame for the proponent to  
19 prepare its reply evidence.

20 MADAM CHAIR: The Board always listens to  
21 your submissions, Mr. Freidin.

22 MR. FREIDIN: Thank you, Madam Chair.

23 MR. CASSIDY: Madam Chair, if that is the  
24 case, would the Board also be moving up - I don't think  
25 there's been an actual schedule set for the New

1       Liskeard or North Bay satellite hearings - would the  
2       Board be moving those up as well?

3                   MADAM CHAIR: Absolutely, Mr. Cassidy.  
4       Everything would, everything would be moved up, and I  
5       think as it stands now those hearings are set in the  
6       time just before the Ministry of the Environment's  
7       case. There was three weeks or a month set aside in  
8       the spring.

9                   MS. SEABORN: I think actually, Madam  
10      Chair, they're scheduled at the moment for just after  
11      the presentation of our case.

12                  MADAM CHAIR: Just after, all right.

13                  MS. SEABORN: I think when you were doing  
14      the scheduling the Board had indicated, because of our  
15      client's desire to call its case in Toronto and the  
16      Board had anticipated being in North Bay for NOTO's  
17      case that you would do the North Bay satellite hearing  
18      and NOTO's case and then return to Toronto for a break  
19      in the travel schedule and hear MOE's case, and then  
20      the remainder of the satellite hearings, and then there  
21      was another break until the OFIA reply was to start at  
22      the end of May.

23                  MADAM CHAIR: Thank you for reminding the  
24      Board, Ms. Seaborn.

25                  On another matter, there was a date that

1       Mr. Pascoe brought to my attention that a scoping  
2       session for the OFAH evidence was set some time ago for  
3       September the 16th. I think that date is out the door  
4       right now. I think you should just scratch it off your  
5       calendars. We'll cancel the September 16th date for  
6       scoping that evidence.

7                  Do any of the parties wish to comment now  
8       about the task to which Mr. Beram will be asked to  
9       undertake by the panel? At the end of this session we  
10      are going to instruct Mr. Beram to give us advice on  
11      the various options available to us with respect to  
12      obliging parties to conform with deadlines and Board  
13      rulings and so forth.

14                 I believe, Mr. Beram -- the Board will  
15      instruct Mr. Beram to consult with the parties on  
16      whatever advice he intends to give the Board before it  
17      reaches us, so certainly you will have an opportunity  
18      to make some input into that.

19                 Is there anything the parties wish to say  
20      to the panel at the present time?

21                 MS. SWENARCHUK: Madam Chair, I would  
22      suggest that it be appropriate for parties to be given  
23      an opportunity to submit to you in writing what is  
24      essentially legal argument and several weeks to prepare  
25      it. I think that most of us would like a chance to

1 think that through and do some research before  
2 commenting to this sort of matter. It can easily be  
3 dealt with in writing.

4 MADAM CHAIR: Is it agreed by the parties  
5 then that they will await receipt of Mr. Beram's letter  
6 and respond in writing to that letter?

7 MR. CASSIDY: (nodding affirmatively)

8 MADAM CHAIR: I see heads nodding, so the  
9 Board will assume all the parties agree.

10 MR. FREIDIN: Any sort of timing, Mr.  
11 Beram?

12 MR. BERAM: It will be fairly swift, I  
13 can assure you, Mr. Freidin.

14 MR. FREIDIN: Sounds like you've been  
15 around here for a long time.

16 MADAM CHAIR: Mr. Hanna, is there  
17 anything else you wish to say to the Board today with  
18 respect to your submissions on the proposed scheduling?

19 And, furthermore, can you commit to a  
20 date at which you could inform the Board of whether the  
21 coalition is firmly committed to making a case or must  
22 regretfully not make a case?

23 MR. HANNA: Regarding the latter matter,  
24 I will inform the Board at the latest by the end of  
25 this week when you will have the final answer from the

1 coalition. I have to speak to them and see when they  
2 can give me the final decision.

3 MADAM CHAIR: You will let us know by  
4 Friday, Mr. Hanna?

5 MR. HANNA: Yes, Madam Chair.

6 Madam Chair, another matter that is  
7 somewhat related, and that flows from Mr. Beram's  
8 letter of August 28th, 1991 to myself, is the  
9 suggestions in the letter, and I quote:

10 "Given your past performance you might  
11 not be able to meet this new proposed  
12 schedule."

13 And there are a number of suggestions  
14 made in that letter regarding both the coalition's  
15 failure and the OFAH's failure to meet deadlines set  
16 out by this Board.

17 Likewise, I was personally chastised by  
18 one of the Board members regarding my performance  
19 before this Board. It's a matter that's caused me  
20 great personal concern and also concern of my client.

21 It is a matter that has been in gestation  
22 and I actually have retained legal counsel and are  
23 working on that matter, but I want to make it very  
24 clear to the Board on the record that there is nothing  
25 that I know of to support those allegations, that my

1 performance before this Board has always been one of  
2 walking the extra mile, not only walking the extra mile  
3 in the sense of doing it, but also in spirit.

4 I have done everything personally  
5 possible and believe the Federation has done more than  
6 any other public interest group that I know that has  
7 been involved in a hearing like this to walk the extra  
8 mile and I would simply say that I find those  
9 allegations particularly concerning, both personally  
10 and to my client and, hopefully, if this schedule goes  
11 ahead, that that won't be an issue we have to address  
12 again.

13 Thank you, Madam Chair.

14 MADAM CHAIR: Thank you, Mr. Hanna. The  
15 Board is very hopeful that the coalition will present a  
16 case. We think we've done everything we can to  
17 encourage your clients to do that. Factors that you  
18 have pointed to with respect to intervenor funding are  
19 out of this panel's control. We think we've done  
20 everything we can to make it possible for your clients  
21 to put in evidence and we hope that that will be the  
22 outcome of all of this discussion.

23 Do any of the parties have anything to  
24 say to the Board?

25 (no response)

1                   All right. We will adjourn this session  
2                   and wait to hear from Mr. Hanna on Friday as to when we  
3                   will know finally when Mr. Hanna's case will begin.

4                   And, Mr. Hanna, the Board will be ruling  
5                   on the matter of your proposed schedule and the Board  
6                   still wishes to receive in person that firm commitment  
7                   from your clients with respect to the decision and the  
8                   ability to proceed, and we will have Mr. Beram get in  
9                   touch with you and your clients on that matter.

10                  Thank you.

11                  Mr. Hunter, we are scheduled to do the  
12                  scoping of your session. The Board will take a break  
13                  and we will be back in 15 minutes.

14                  MR. HUNTER: Thank you.

15                  MADAM CHAIR: Thank you.

16                  ---Recess taken at 2:10 p.m.

17                  ---On resuming at 2:30 p.m.

18                  MADAM CHAIR: Please be seated.

19                  Mr. Hunter?

20                  MR. HUNTER: Good afternoon, Mrs. Koven,  
21                  Mr. Martel.

22                  MADAM CHAIR: Mr. Martel and I have gone  
23                  over your written evidence in some detail and we have a  
24                  number of questions to put to you so that you can  
25                  answer them in your case.

1                   Our first question - and we will begin  
2 with Panel 1 - the Board understands from Panel 1 that  
3 the Windigo Tribal Council has decided to not be a  
4 separate party but to be the one group within the NAN  
5 organization who also wishes to say something, and when  
6 we read through the witness statement we understood the  
7 reasons with respect to their participation in resource  
8 development in the past, the various agreements that we  
9 have gone over in detail and will address in Panel 4,  
10 and we also wanted to know whether another reason that  
11 Windigo Tribal Council is prominent in the NAN case has  
12 to do with the fact that the four communities it  
13 identifies are those that have been most impacted by  
14 timber management so far, or are on the front line of  
15 advances in timber management compared to the rest of  
16 the NAN communities and we simply wanted some  
17 clarification of that.

18                   MR. HUNTER: Thank you.

19                   MADAM CHAIR: The Board has questions  
20 that it will put to you in Panel 4 about the memorandum  
21 of understanding and other agreements between NAN and  
22 Ontario, but we were wondering if some of those  
23 questions should also be directed to Grand Chief  
24 Cheechoo, or would you prefer that Charles Fox be the  
25 witness who answers those in Panel 4? And we leave

1           that for you to decide.

2                   MR. HUNTER: May I advise the Board on  
3           that?

4                   MADAM CHAIR: Yes. On page 16 of Panel 1  
5           there's a reference to the Kayhana Tribal Council Land  
6           Use and Occupancy Study. That study was recommended to  
7           us by Mr. Fahlgren himself during a satellite hearing  
8           in Red Lake and he suggested to the Board that it's a  
9           source of information and the type of information that  
10          would assist timber management planning.

11                  We understand from the evidence that some  
12          part of this study has not been translated completely  
13          from the language in which it was written, but we want  
14          to have some comments from your witnesses about whether  
15          information provided in that detail, in that format, is  
16          the sort of information that they see the NAN  
17          communities giving to MNR with respect to the  
18          identification of AOCs and other matters in timber  
19          management planning, or is it in fact not the type of  
20          information that your communities sees giving to MNR or  
21          using in a useful way in timber management planning?

22                  MR. HUNTER: Can we try to address that  
23          in Panel 4 with Mr. McKibbon?

24                  MADAM CHAIR: That is just fine.

25                  On page 17 there's mention of an issue

1       that arose early in the hearing, Volume 7 actually of  
2       extending the terms and conditions of the Class EA  
3       north of the 52nd parallel. The Board has before it  
4       evidence in Volume 7, Volume 67, Volume 176, and also  
5       in the terms and conditions of June, 1989 and August,  
6       1990 and we thought that that matter had been dealt  
7       with within the hearing when we heard the evidence of  
8       Mr. Bisschop.

9                   But we want to know from your witnesses  
10       if that matter has been satisfactorily dealt with in  
11       the terms and conditions or any agreement with MNR.  
12       You can tell us that's not a concern of yours, that's  
13       fine, we just don't know where it stands right now.

14                   MR. HUNTER: We can deal with that in  
15       Panel 5, Madam Chair.

16                   MADAM CHAIR: Thank you. Those were the  
17       questions the Board had with respect to Panel 1.

18                   With respect to Panel 2, I don't think  
19       we've ever received a resume for Mr. Frank McKay, and  
20       is he going to be in Panel 1 or is he going to be only  
21       in Panel 2?

22                   MR. HUNTER: I believe that he was in 1  
23       and 2 and I apologize. I thought that we had sent a  
24       resume for him. Yes, on Panel 1, his resume is at page  
25       28 of the witness statement.

1                   MADAM CHAIR: All right, page 28. Page  
2       28 of Panel 1?

3                   MR. HUNTER: Yes.

4                   MADAM CHAIR: Yes, it is. Sorry, we were  
5       looking at the others in the beginning of the document.

6                   MR. HUNTER: Yes.

7                   MADAM CHAIR: Thank you very much. And  
8       he will be in Panels 1 and 2?

9                   MR. HUNTER: 1 and 2, that's correct.

10                  MADAM CHAIR: Okay, thank you. Will Ms.  
11      Rosie Mosquito be providing any translation that might  
12      be required for witnesses in your Panels 2 and 3?

13                  MR. HUNTER: Yes. Translation will be  
14      required in Panel 2. Mrs. Georgina Fox and Mr.  
15      Cromarty will speak in both English and in Oji-Cree,  
16      Ojibway. I'm not sure that we will require translation  
17      for him in that context, but definitely for Ms. Fox.

18                  And Panel 3 - I'm sorry I'm anticipating  
19      you - in Panel 3 there will be several persons who do  
20      not speak English and Ms. Mosquito will be assisting  
21      them and they are all of the persons from Osnaburgh and  
22      I believe there will be an individual who's not  
23      identified in this statement who is an elder from  
24      Saugeen. That one person has asked to appear with the  
25      chief. Their statements will not be any different in

1       context from what is here. So there will be four  
2       people who will require assistance.

3                     MADAM CHAIR: Thank you, Mr. Hunter.

4                     As you know, the Board has retained the  
5       services as well of Mrs. Victoria Maxwell and Mrs.  
6       Maxwell travelled with the Board to hear the evidence  
7       of Grand Council Treaty No. 3 and she will be present  
8       during the evidence of your witnesses as well. So if  
9       there's any way that she can assist Ms. Mosquito, then  
10      we will rely on you to coordinate that effort.

11                  MR. HUNTER: Thank you.

12                  MADAM CHAIR: On another matter, as you  
13       know we routinely ask witnesses to be sworn in and have  
14       tried to explain that's not intimidating and it's not  
15       because we don't believe they're going to tell us the  
16       truth, and with respect to the witnesses for Grand  
17       Council Treaty No. 3, a number of them did so in their  
18       own fashion with respect to affirming their  
19       participation and their evidence, and they did it with  
20       their own traditional means.

21                  And we raise this because we read very  
22       carefully Professor Grant's report on the justice  
23       policy and he was critical of the over legalistic  
24       approach that is sometimes taken with respect to these  
25       matters, and we simply want you to inform your

1       witnesses that this is what we do and we don't want  
2       them to be surprised and they, of course, are free to  
3       affirm their evidence in any way they choose to do so.

4                    MR. HUNTER: I had intended to speak to  
5       each one and I think they will make individual choices.  
6       I think there will be some individuals who will be  
7       quite happy swearing on the Bible, others would be less  
8       comfortable, so I will leave that to each individual.

9                    MADAM CHAIR: As long as you have them  
10      prepared and they're not offended by that.

11                  With respect to your witness Panel No. 3,  
12      it's very straightforward and the Board doesn't have  
13      any particular questions with respect to that evidence.

14                  MR. HUNTER: Thank you.

15                  I might add -- well, I will address some  
16      of those issues. I wanted to make some comments on  
17      scheduling and, in that context, perhaps I will address  
18      issues at that point.

19                  MADAM CHAIR: Okay, fine.

20                  Now, with respect to Panels No. 4 and No.  
21      5, the Board does have a series of questions beginning  
22      with Charles Fox's evidence.

23                  And will Mr. Fox be the best person to  
24      describe how all the various agreements that NAN and  
25      Windigo Tribal Council have with Ontario, how those fit

1       into timber management planning? Now, the Board has  
2       specific questions with respect to that, but is Mr. Fox  
3       the one that will be dealing primarily with questions  
4       of that nature?

5                    MR. HUNTER: I think Mr. Fox is the best  
6       person, as between Mr. Fox and Mr. McKibbon, to talk  
7       about the background of the agreements and how they are  
8       important in the broadest context with respect to  
9       resource development from an aboriginal perspective.

10                  I think Mr. McKibbon is the best person  
11      to then take that experience and those agreements and  
12      to translate that into the planning evidence which we  
13      have given to the Board with respect to timber  
14      management.

15                  I think equally that Professor Grant is  
16      also an effective witness to deal with those issues,  
17      again in a broader -- so you will have three different  
18      people--

19                  MADAM CHAIR: Yes.

20                  MR. HUNTER: --dealing with the same  
21      pieces of paper but looking at them from very different  
22      perspectives.

23                  MADAM CHAIR: All right.

24                  MR. HUNTER: And how it was that we  
25      attempted to use those negotiations and those pieces of

1 paper to effect resource management planning in  
2 northern Ontario.

3 But with respect to your specific  
4 question, Mr. McKibbon, in my view, would be the best  
5 person to take the experience, the documents and then  
6 translate them into the timber management planning  
7 process for you.

8 MADAM CHAIR: Okay, thank you. Now, with  
9 respect to Mr. McKibbon's evidence in Panel 4.

10 MR. HUNTER: Yes.

11 MADAM CHAIR: He refers on various pages  
12 to the Musselwhite Planning Agreement, which the Board  
13 has gone over carefully, and that is Appendix 4, 4B.

14 MR. HUNTER: Yes.

15 MADAM CHAIR: Mr. McKibbon makes the  
16 statement on page 25 that:

17 "With respect to the Musselwhite and  
18 other agreements MNR doesn't know how to  
19 incorporate these agreements into the  
20 timber management planning process."

21 And he's really put his finger on the  
22 Board's problems in this area as well. The Board  
23 doesn't see the fit between various resource  
24 agreements, particularly the September 30th, 1990  
25 planning agreement--

1 MR. HUNTER: Yes.

2 MADAM CHAIR: --with respect to how all  
3 this fits into what is intended to be accomplished in  
4 timber management planning.

5 We have more questions on the specifics  
6 of that, but Mr. McKibbon certainly has put his finger,  
7 as I said, on what the Board finds a little perplexing.

8 MR. HUNTER: I might add that - we'll  
9 have to present evidence - Cabinet just agreed and  
10 signed the planning agreement and those documents are  
11 now being signed by the Windigo chiefs and they're  
12 being signed by Cabinet within the next week.

13 MADAM CHAIR: Well, that was another of  
14 the Board's questions, where that one stood.

15 MR. HUNTER: Now, as we understand, it's  
16 approved by Cabinet and that process will go on line  
17 presumably no later than October 1, 1991 and,  
18 therefore, the issue of how issues under the Crown  
19 Timber Act will be dealt with will, in fact, be dealt  
20 with under that planning agreement pursuant to the  
21 terms and conditions of the agreement. So that the  
22 linkage has been made, here's the agreement.

23 MADAM CHAIR: Of that agreement, but not  
24 of timber management planning.

25 MR. HUNTER: That's correct.

1                   MADAM CHAIR: We'll get to that in a few  
2                   minutes.

3                   MR. CASSIDY: Do you, Mr. Hunter, intend  
4                   to have a witness to give evidence on that?

5                   MR. HUNTER: On...?

6                   MR. CASSIDY: What you just said.

7                   MR. HUNTER: Specifically on what? With  
8                   the document itself?

9                   MR. CASSIDY: The developments in Cabinet  
10                  and what the anticipation of your client is flowing  
11                  therefrom.

12                  MR. HUNTER: Well, Mr. McKibbon can give  
13                  evidence.

14                  MADAM CHAIR: All right, thank you.

15                  On page 28, Item 3 Mr. McKibbon points  
16                  out that there's a wealth of biological data on Indian  
17                  traditional harvesters which could be used in the  
18                  timber management planning process, and this is what  
19                  seems obvious to the Board as well in going over your  
20                  evidence for Panels 4 and 5.

21                  In various of the agreements that you  
22                  have signed, the Dona Lake Agreement and the St. Joe's  
23                  Agreement and the Cedar Channels Agreement - well,  
24                  that's a separate licencing arrangement - but in the  
25                  agreements with respect to the mining projects, there

1       are provisions made in those agreements to do specific  
2       kinds of data collection.

3                 Now, is it going to be your position that  
4       MNR should think of a way of incorporating that data,  
5       or will NAN be saying to MNR: We're participants in  
6       timber management planning and we want you to take this  
7       data and this is part of our contribution to the  
8       process.

9                 We don't see the link between money being  
10      spent on collecting data throughout NAN areas and MNR's  
11      timber management planning process. Obviously there's  
12      no point in MNR staff running around getting all the  
13      information they can on a traditional land use when  
14      that information seems to be being collected very  
15      systematically under the terms of various agreements,  
16      not that it covers all their communities and land  
17      bases, but...

18                 MR. HUNTER: Okay, may I correct. The  
19      evidence with respect to the Musselwhite Agreement, the  
20      planning portion, I'll ask Professor Grant and Mr.  
21      McKibbon to address that in Panel 4, particularly  
22      Musselwhite.

23                 MADAM CHAIR: All right.

24                 MR. HUNTER: Professor Grant particularly  
25      since he carried it through the whole process.

1                   MR. CASSIDY: You're talking about the  
2 Cabinet approval?

3                   MR. HUNTER: Yes.

4                   MR. CASSIDY: Okay.

5                   MR. HUNTER: I mean, I have no difficulty  
6 doing that, Mr. Cassidy. The only issue is it doesn't  
7 apply, as I say, in this area because it's outside the  
8 area of the undertaking.

9                   MR. CASSIDY: That's fine. As long as I  
10 have a witness I can cross-examine, if it requires it.

11                  MADAM CHAIR: With respect to the Dona  
12 Lake Agreement and the St. Joe Agreement, there are  
13 provisions in that agreement for employment  
14 opportunities for NAN communities and also attempts to  
15 enlarge the economic base of the communities.

16                  MR. HUNTER: Yes.

17                  MADAM CHAIR: And we find those points  
18 made in your Panel 5 evidence with respect to terms and  
19 conditions, and we would simply point out that, for  
20 example, Item 20(a) on page 31 of your Panel 5  
21 evidence, which is a term and condition referring to  
22 the allocation of timber for native communities, and  
23 Item 20(b) which is employment of native peoples in  
24 timber management, that the latter, with respect to  
25 employment, is a quite different position than that

1           taken by Grand Council Treaty No. 3.

2                         Not that the two positions should be the  
3           same by any means, but the Board had questioned Grand  
4           Council Treaty No. 3 fairly extensively on whether they  
5           saw employment opportunities being something that they  
6           wished to see specified in timber management planning  
7           and their answer was no, they want to see more jobs and  
8           so forth for their members obviously, but they weren't  
9           taking the same position that your communities are  
10          taking with respect to this issue.

11                       The Board has another question with  
12          respect to the Dona Lake and St. Joe agreements, where  
13          there's a very complicated administration management  
14          structure involving about six committees or so and in  
15          the order of 45 or 50 people, members of your  
16          communities and government people and people from these  
17          companies who were involved in these agreements to  
18          administer this, and the Board is interested in whether  
19          these complicated committees seem to be working.

20                       Now, we understand perfectly well that  
21          these agreements are project specific and obviously  
22          simpler to administer than timber management plans are,  
23          we're not saying that the success or difficulties  
24          encountered in administering those agreements will be  
25          the same situation experienced by timber management,

1 should that type of committee system be used as well,  
2 but we are interested in the experience of those  
3 committees, as to whether your communities think  
4 they've benefitted from that sort of a structure.

5 MR. HUNTER: I was just going to say that  
6 one of the reasons why we're asking for Professor Grant  
7 to appear and Mr. Fox is to comment on that with all  
8 the good, bad and indifferent.

9 MADAM CHAIR: All right.

10 MR. HUNTER: Simply because it's the only  
11 experience you basically have worked with. I'm sure  
12 there are others, but...

13 MADAM CHAIR: Thank you. Now, the  
14 planning agreement that you just referred to as being  
15 approved by Cabinet and soon to be signed, MNR is a  
16 signatory to that agreement, I understand that the  
17 Ministries of Northern Affairs and Mines, MNR, MOE and  
18 ONAD are all --

19 MR. HUNTER: They're all lining up, yes.

20 MADAM CHAIR: Are all signatories to that  
21 agreement.

22 MR. HUNTER: Yes.

23 MADAM CHAIR: Now, that is just so  
24 directly relevant to timber management planning. In  
25 our reading of it, having heard no evidence of it, and

only reading what we have in Appendix 4A, that the proposed interim planning boards will have extensive involvement in land use and resource development and, as you pointed out yourself, with respect to the Crown Timber Act.

6

MR. HUNTER: Yes.

7                   MADAM CHAIR: And so we really are going  
8                   to want to hear how these planning boards fit into  
9                   timber management planning, what role do they have with  
10                  respect to local timber management plans.

11 And with respect to the Interim Measures  
12 Agreement of November 28th, 1990 which reaffirms the  
13 memorandum of understanding, and the addendum to the  
14 memo of understanding in 1976 and 1989 respectively,  
15 again there is an item referring to Crown Timber Act  
16 and requirements for the MNR to notify NAN of various  
17 timber management activities.

18                           The Board wishes to have an update of the  
19                           status of this agreement and what it means for timber  
20                           management planning.

21 And finally, the statement of political  
22 relationship that was the most recently signed on  
23 August 6th, 1991; was this agreement signed by NAN, and  
24 we certainly see Grand Chief Bentley Cheechoo mentioned  
25 in a news release that we received, and we want to know

1 what this means to timber management planning, if  
2 anything.

3 We understand that it has to do with  
4 self-government commitments or initiatives or the  
5 willingness of government to work towards that  
6 objective. We don't care about the political aspects  
7 of that agreement, we just want to know if it has  
8 anything to do with timber management planning in the  
9 eyes of your client.

10 MR. HUNTER: Thank you.

11 MADAM CHAIR: Now, with respect -- to  
12 finish off our questions on Panel 5, was your purpose,  
13 Mr. Hunter, in sending the Board the final review  
14 tables for the terms and conditions negotiations, did  
15 you do that for reason of updating the Board on where  
16 your terms and conditions have changed with respect to  
17 evidence in Panel 5?

18 Is there anything in that document you  
19 sent us that is different than the description of the  
20 terms and conditions by Mr. McKibbon in Panel 4 and 5?

21 MR. HUNTER: May I see the subsequent  
22 document that was filed, I just want to make sure I'm  
23 referring to the...

24 I think, while there is nothing so  
25 difficult about associating with those tables, having

1           been presented it, I then reviewed with Mr. McKibbon.

2           Those tables are principally the basis  
3           for negotiations with the other parties and they are  
4           not part of our evidence. They ought not to have been  
5           filed for those purposes, and I apologize.

6           MADAM CHAIR: Well, they don't make too  
7           much sense to the Board because they're only  
8           check-off...

9           MR. HUNTER: That's right, they're  
10          checklists.

11          MADAM CHAIR: And so it didn't make any  
12          sense to us, we just wanted to know why you did it and  
13          what we were to make it.

14          MR. HUNTER: That's right. It's my  
15          mistake.

16          MADAM CHAIR: All right. And so the  
17          terms and conditions that are described by Mr. McKibbon  
18          in Panel 5 are the ones that the Board is concerned  
19          with.

20          MR. HUNTER: Yes. That's all that's on,  
21          that's all that we're discussing at this point in time.

22          MADAM CHAIR: All right. On page 2 of  
23          Panel 5 evidence a reference is made to off-reserve  
24          lands with respect to timber management planning  
25          notice.

1                   The Board takes it that this isn't just  
2         traditional use and trapline management areas, but  
3         would also be any lands that your communities would  
4         wish to have a commercial interest in and don't  
5         necessarily adjoin reserve areas and communities. We  
6         want that kind of a clarification, we're not sure  
7         what's meant by off-reserve lands.

8                   On page 3 of witness Panel 5 and in other  
9         places within this evidence Mr. McKibbon refers to the  
10       trapline management areas as providing, we assume, a  
11       good indication of traditional land use by your  
12       communities, and this goes to the same question we  
13       asked a short while ago; and, that is, what's been done  
14       about plugging this information into timber management  
15       planning, if anything at all, and do you see that as a  
16       source of good information for timber management  
17       planning?

18                  On page 4, is NAN saying that all the  
19       agreements negotiated with Ontario will take precedence  
20       over timber management planning, both the agreements  
21       that you've signed so far and any that you might sign  
22       in the future?

23                  On page 15 reference is made to where a  
24       reserve land base is too small an area for expansion  
25       and you want to show that there could be an expansion

1       of -- the Board isn't sure what, we're not sure what's  
2       meant by that statement, that somehow reserve areas  
3       will be expanded. We're not sure in what context that  
4       statement was made.

5                  Does that have to do with timber  
6       management planning or with a separate process for  
7       identifying reserve boundaries?

8                  On page 17 Mr. McKibbon talks about, and  
9       proposes in the terms and conditions, the use of an  
10      environmental assessment matrix. Could Mr. McKibbon  
11      please identify for the Board the source of that tool.

12                 And we have heard from you, Mr. Hunter,  
13       in the past you had some, I think it was complimentary  
14       tree things to say, about the study approach of Ontario  
15       Hydro with respect to this sort of a matter and we  
16       weren't sure if this is where the environmental  
17       assessment matrix came from or not.

18                 On page 18 the terms and conditions refer  
19       to specific mitigation and compensation measures. Are  
20       these compensation measures similar to the ones stated  
21       in the Musselwhite Compensation Agreement or has any  
22       thought been given as to what compensation measures  
23       would be? Do your communities receive any compensation  
24       now from MNR with respect to timber management?

25                 On pages 24 and pages 35 we seem to be

1 talking about bump-up and your terms and conditions  
2 10(e)(b) and 10(h) and 42(e) and various others seem to  
3 be saying to the Board that the Ministry of the  
4 Environment doesn't have very much to do with bump-up  
5 with respect to NAN communities, what NAN wants is an  
6 automatic bump-up that kicks into place if  
7 negotiations, in whatever form they take about timber  
8 management issues, don't work out.

9 In other words, the way the bump-up  
10 mechanism works now for other groups is that they must  
11 request that of the Ministry of the Environment and  
12 then MNR is ordered or not ordered to do a full  
13 environmental assessment.

14 Do your terms and conditions altogether  
15 say that a special provision must kick in and that  
16 whenever -- and you cite various time periods and  
17 various thresholds beyond which an automatic bump-up  
18 seems to kick into place for NAN communities, and the  
19 Board would like that clarified.

20 You refer to a concurrence by the  
21 Director of the Environmental Assessment Branch of the  
22 Ministry of the Environment, but it seems to the Board  
23 that you've thrown out the idea of going through the  
24 process of requesting bump-ups in any particular  
25 situation affecting NAN communities.

1                   Now, the Board might be misreading that  
2 from the written evidence, but we definitely want  
3 clarification on how you propose that be done.

4                   On page 27 and elsewhere you refer to  
5 buffer areas. Other than the herbicide/insecticide  
6 spray buffers, is there a size to the buffer areas  
7 which NAN has suggested with respect to timber  
8 management?

9                   On page 31, Item 20(a), this term and  
10 condition talks about the allocation of timber for  
11 native communities and does this term and condition say  
12 that when timber management takes place near NAN  
13 communities that members of those communities be given  
14 a first opportunity for a timber licence or some other  
15 allocation of timber and that that would apply to both  
16 traditional use areas and any commercial timber  
17 management that takes place?

18                  In other words, are we talking about this  
19 opportunity for NAN members to be involved in timber  
20 management only within reserve areas, or everywhere in  
21 the area of the undertaking, the entire area of the  
22 undertaking. That's not clear to the Board.

23                  You make it pretty clear in subsequent  
24 references to chemical insecticides that you don't  
25 really like them at all and you're in favour of the

1 moratorium and you really only support the aerial  
2 spraying with Bt, but there is an item in term and  
3 condition 48(b)(vi), you refer to chemical  
4 insecticides, and the Board wasn't sure whether you  
5 meant to say chemical insecticides or not. It's  
6 deleted from all your other terms and conditions but it  
7 was left in there.

8                   On page 46 you identify the size of  
9 buffer zones proposed for spraying activities. The  
10 Board would like to know what the source of these  
11 buffer zone sizes is.

12                   On page 48, does the Board take it that  
13 NAN and Windigo will have nothing more to do with the  
14 draft guidelines exercise for the protection of  
15 cultural and heritage resources?

16                   It seems to us from reading your evidence  
17 that you have proposed ways of dealing with those  
18 resources yourself in your terms and conditions, and is  
19 the Board simply to take it that you're finished with  
20 and will have nothing to do in the future with these  
21 draft guidelines and, so far as the Board knows they're  
22 still draft, in a draft condition.

23                   On page 49, is the Board to take it that  
24 NAN and Windigo will be reporting to MNR the number of  
25 moose and other wildlife they harvest traditional

1 foods? We weren't quite sure what this statement  
2 meant:

3 "Nishnawbe-Aski Nation and Windigo Tribal  
4 Council seeks to redirect Ministry  
5 monitoring programs to collect  
6 information on wildlife harvested locally  
7 as traditional foods by native  
8 communities.

9 The Ministry does not currently collect  
10 this information or analyse this  
11 information on a local level and,  
12 therefore, has no database from which to  
13 identify impacts of timber management  
14 planning on those species of local  
15 concern to native harvesters."

16 Our understanding so far is that native  
17 communities do not report to MNR on the size of  
18 wildlife harvested in their own areas.

19 And with respect to that question by the  
20 Board, we received in the mail - well, somewhere in  
21 these papers - we received in the mail an interim  
22 enforcement policy brochure put out recently by MNR,  
23 and we wondered if that is in any way related to this  
24 term and condition.

25 And by the way, Mr. Freidin, is that

1 going to be evidence before this hearing?

2 MR. FREIDIN: I'm not sure of the  
3 particular brochure that you're speaking about. I'm  
4 aware of the policy that, in fact, interim enforcement  
5 policy that was filed as an exhibit in Thunder Bay --  
6 pardon me, in Fort Frances during Treaty No. 3's  
7 occasion, Exhibit 1896 I think, I'm not sure, but  
8 something around there.

9 I'm not sure whether this brochure merely  
10 reproduces part of that for ease of reference. I can  
11 look into that and --

12 MADAM CHAIR: Well, could you tell the  
13 Board whether there's anything more recent than what we  
14 got from you in Fort Frances?

15 MR. FREIDIN: Sure. And if there is, we  
16 will make sure that it gets appropriated somewhere,  
17 some way into the evidence.

18 MADAM CHAIR: This is a little off the  
19 point, Mr. Freidin - and, sorry, Mr. Hunter - but the  
20 Board has been keeping track all summer when it reads  
21 the newspaper of various announcements of study groups  
22 and task forces and all sorts of activities going on  
23 with respect to wildlife management and old forest  
24 protection and there were three or four different  
25 announcements in the paper, and the Board would like

1 some clarification - we'll ask for it when we begin the  
2 hearing again - from MNR about what those initiatives  
3 mean and how they're tied into the evidence we have  
4 been receiving at the hearing, and we will identify for  
5 you what we have read tape in the newspapers  
6 specifically.

7 Thank you.

8 MR. FREIDIN: This brochure though that  
9 you received, is it an actual glossy or...?

10 MR. MARTEL: Yes.

11 MADAM CHAIR: It's a matte blue.

12 MR. FREIDIN: It's a printed document  
13 with a cover?

14 MR. MARTEL: Yes. It's got a heading and  
15 it's about five pages, two sides French and English.

16 MR. FREIDIN: Okay.

17 MADAM CHAIR: Mr. Hunter, those are our  
18 questions for your witnesses.

19 MR. HUNTER: Thank you. I'm not familiar  
20 with -- may I make a few comments?

21 MADAM CHAIR: Of course, that's what  
22 we're here for.

23 MR. HUNTER: Thank you. What I really  
24 wanted to do was to discuss with the Board and my  
25 colleagues the scheduling for the hearing, what we

1        hoped our objectives would be.

2                 Based upon my understanding of the  
3        statements that have been filed by the other parties I  
4        would hope that the following could occur: That unless  
5        I'm misreading the statements of issues filed by my  
6        colleagues and having now heard the questions raised by  
7        the Board, I would hope that Panels 1 and 2 should be  
8        finished by September the 26th, which is the Thursday.

9                 MADAM CHAIR: Excuse me, that means, Mr.  
10        Hunter, we'd begin sitting --

11                 MR. HUNTER: 25th I believe.

12                 MADAM CHAIR: Wednesday the 25th.

13                 MR. HUNTER: Yes. I would anticipate  
14        that I would lead evidence for no more than an hour on  
15        Panel 1, an hour, an hour and a half, and I would  
16        anticipate that we would lead evidence for no more than  
17        two hours with respect to Panel 2.

18                 MADAM CHAIR: Mm-hmm.

19                 MR. HUNTER: So again, based upon the  
20        questions we have received to date, I would be hopeful  
21        that we could complete Panels 1 and 2 by the 26th.

22                 MADAM CHAIR: And that is a day and a  
23        half?

24                 MR. HUNTER: Yes.

25                 MADAM CHAIR: All right.

1                   MR. HUNTER: And I'm raising that because  
2 the Board has graciously -- I have a commitment in  
3 Michigan on the Monday, so we are resuming on the 1st,  
4 as I understand it, which is October the 1st.

5                   That may not be -- perhaps I should raise  
6 it now. The Board was originally scheduled for Monday,  
7 September the 30th, and I raised this matter with Mr.  
8 Pascoe and I'll just raise it now.

9                   I have a matter in Michigan on the  
10 Monday, it was set down about six months ago, and I  
11 ought to be there. So I was going to ask the Board if  
12 we could reconvene on Tuesday at 1:30.

13                  And what I am proposing is that our Panel  
14 commence on Tuesday, October the 1st. Now, this is  
15 the panel that poses for us the greatest logistical  
16 concern because there are several parties coming from  
17 out of Sioux Lookout, so we are going to need some time  
18 to get them into Sioux Lookout, and I am presuming that  
19 that panel will take two or three hours in direct  
20 evidence, principally because of the translation.

21                  And again, without presuming too much,  
22 I'm presuming that cross-examination on that will take  
23 a day or day and a half, and then here's where I am  
24 going to ask for the indulgence of the Board and of the  
25 counsel, and I'm not seeking any adjournment but just

1 simply an opportunity to rearrange our presentation.

2 Allan Grant must be in New Brunswick in  
3 the first week of October and he is not available until  
4 late in the afternoon on the 8th and the 9th. I'm  
5 going to be issuing a subpoena for him to attend and I  
6 would like him to make himself available on the  
7 afternoon of the 8th, if flights can be arranged, and  
8 all day on the Wednesday.

9 So assuming that I'm not too off on my  
10 calculations, we would possibly complete Panel 3 by the  
11 2nd of October, possibly early on Thursday. I would  
12 then lead Panel 4 with Mr. McKibbon and Mr. Fox.

13 MADAM CHAIR: On October the 7th, Mr.  
14 Hunter?

15 MR. HUNTER: No, I'm hoping October the  
16 3rd.

17 MADAM CHAIR: Oh, okay.

18 MR. HUNTER: I will have them available.  
19 I'm presuming that Panel 3, if we commence on the 1st,  
20 will be completed by the 2nd and I will have Mr. Fox  
21 and Mr. McKibbon available for Panel 4 on the afternoon  
22 of the 2nd through to the 3rd so that the parties may  
23 hear their evidence and cross-examination can begin.

24 Assuming cross-examination is completed  
25 of Mr. Fox and Mr. McKibbon on Panel 4, I would then

1 propose to lead Mr. McKibbon in Panel 5 on October the  
2 7th.

3 And I'm going to propose with respect to  
4 his evidence that, with permission of counsel and we  
5 will try to complete this chart before that time, as  
6 you're aware we're involved in negotiations with the  
7 Ministry and with the other parties.

8 What I hope to do with Mr. McKibbon's  
9 evidence is to present to the Board a chart which will  
10 say: Here are our terms and conditions, which you have  
11 now, and here are the areas where we have agreement  
12 with the other party or parties, principally MNR, and  
13 here are the areas where we may have an agreement, and  
14 here's the areas where we don't have an agreement, and  
15 presumably that chart will reflect some reality as  
16 between the parties so that there's no surprises to  
17 anybody.

18 And then Mr. McKibbon would then -- we  
19 would obviously give our reasons as to why we want our  
20 terms and conditions, we would then explain to the  
21 Board - hopefully I don't have to lead him - as to what  
22 differences exist between ourselves and the other  
23 parties which may be resolved in his view and those  
24 that can't be resolved in his view, and then the other  
25 parties would cross-examine.

1                   I'm hoping that that could occur on the  
2      7th and 8th and, as I say, his evidence will go in, I  
3      would lead Mr. McKibbon on the 7th of October, and I'm  
4      presuming that it would be a rather straightforward  
5      exercise: Here are the terms and conditions, here's  
6      our explanation and go through it. Mr. McKibbon would  
7      then be cross-examined on Panel 5 on October the 8th.  
8      I would then recall Mr. McKibbon and Professor Grant on  
9      the 9th on Panel 4.

10                  MR. MARTEL: You would start Grant on the  
11     8th though?

12                  MR. HUNTER: No, no, I would not, sir. I  
13     will try to have him there if the flights can arranged  
14     to get him into Sioux Lookout in the afternoon. I  
15     think there's a problem there, but I will make Mr.  
16     McKibbon available all day on the 8th for  
17     cross-examination on Panel 5. I am hopeful, but not  
18     confident, that his evidence can be completed in that  
19     period of time.

20                  Professor Grant would then be available  
21     for Panel 4 on the 9th and I would ask Mr. McKibbon to  
22     be available at that time as well. So whatever  
23     cross-examination Mr. Fox can be -- hopefully any  
24     questions to Mr. Fox can be dealt with on the 3rd and  
25     Mr. McKibbon would come back with Mr. Grant, but the

1       evidence that would be given on the 9th would be the  
2       evidence of Professor Grant.

3                   And that would leave the 9th for  
4       cross-examination of Professor Grant and for any  
5       continued cross-examination, if required, of Mr.  
6       McKibbon on Panel 5, if necessary.

7                   The evidence that we are going to give is  
8       not going to be substantially -- well, it will be no  
9       different from that in the witness statements, save and  
10      except for that evidence that we are going to enter as  
11      a result of the Board's questions, and I will ask the  
12      witnesses to address those questions.

13                  MADAM CHAIR: So you're proposing if all  
14      goes according to plan, Mr. Hunter, that you would be  
15      finished 1:30 on October the 10th?

16                  MR. HUNTER: Yes.

17                  MR. FREIDIN: I'm just wondering, Madam  
18      Chair, whether Mr. Hunter could give his estimate for  
19      direct on Panels 4 and 5 and perhaps given the canvass  
20      to see whether his estimates are right. I had spoken  
21      to him about how long I thought I might be and I'm not  
22      too sure if his estimates are going to be attainable.

23                  MR. HUNTER: On direct?

24                  MR. FREIDIN: No, in total. You have  
25      certain time for cross-examination, unless other

1       parties aren't going to do any cross-examination I'm  
2       not too sure whether some of the time frames -- I think  
3       some of the time frames might be a bit optimistic. I  
4       think we should go through the usual procedure.

5                   MADAM CHAIR: I will canvass the parties  
6       and get their estimates of cross-examination.

7                   MR. FREIDIN: How long will you be in  
8       direct, first, on Panel 4 and 5?

9                   MR. HUNTER: Well, I would hope with  
10      respect to Mr. McKibbon and Mr. Fox, I would hope no  
11      more than two hours. I can't see it.

12                  The materials have been filed with the  
13      Board, there's not going -- as I say, other than the  
14      questions which have been raised today, I'm not going  
15      to be introducing any new evidence, and all we're going  
16      to do is give an executive summary of the evidence we  
17      have given. So I can't assume any more than two hours.

18                  MR. FREIDIN: That is on 4?

19                  MR. HUNTER: Yes.

20                  MR. FREIDIN: And what about 5?

21                  MR. HUNTER: 5. I'm presuming at least  
22      half a day, I'm presuming all day on October the 7th,  
23      I'm presuming from 1:30 to 5:00, and as much of that  
24      evidence as we can put into the chart we will do, but  
25      that's going to be difficult, we may not be able to do

1           that, we may have to do it orally.

2                   So I'm presuming that that shouldn't take  
3           any longer than three hours. That assumes that we have  
4           anything to present before the Board on negotiation.

5                   MR. MARTEL: Well, you've got two full  
6           days then, Mr. Hunter, you're talking for Panel 5?

7                   MR. HUNTER: Yes.

8                   MR. MARTEL: You're talking about three  
9           hours for Mr. McKibbon on Monday, and then you've got  
10           the rest of Monday and all day Tuesday for cross?

11                  MR. HUNTER: Yes.

12                  MADAM CHAIR: Let's hear some estimates  
13           from the parties with respect to how long they will be  
14           in cross-examination.

15                  Mr. Cassidy, you won't be cross-examining  
16           on all the panels?

17                  MR. CASSIDY: No, Madam Chair, we do not  
18           intend to cross-examine with respect to Panels 1 or 2.  
19           With respect to Panel 3 we anticipate two hours of  
20           cross-examination; with respect to 4, we anticipate two  
21           hours of cross-examination, with respect to Panel 5,  
22           however - and this is subject to Mr. Hunt informing Mr.  
23           Hunter and yourself otherwise - I would think we would  
24           be a day in cross-examination.

25                  The reason I say that is simple, Mr.

1       Hunt -- I have been trying to reach him to confirm that  
2       time with him and if it's different he will inform the  
3       Board right away, but on the basis of the present  
4       proceeding we should proceed with a day of  
5       cross-examination.

6                   MADAM CHAIR: You were trying to get in  
7       touch with whom, Mr. Cassidy?

8                   MR. CASSIDY: Mr. Hunt is one of my  
9       colleagues who will be cross-examining that panel.

10                  MADAM CHAIR: All right, Mr. Cassidy. We  
11       will return to this.

12                  Ms. Gillespie?

13                  MS. GILLESPIE: Yes. We do not intend to  
14       cross-examine with respect to Panel 1 or Panel 2 and  
15       with respect to Panel 3 I believe one hour would be the  
16       outside limit.

17                  With respect to Panel 4 we had intended  
18       to try to cross-examine Mr. McKibbon only once,  
19       although after hearing Mr. Hunter today it may be we  
20       will have questions for him with respect to the  
21       agreements. We thought those questions would be dealt  
22       with by Mr. Fox when we prepared our statement of  
23       issues, so that it's possible we would be  
24       cross-examining for approximately two hours on Panel 4  
25       and on Panel 5.

1                   MADAM CHAIR: Thank you. Mr. Freidin?

2                   MR. FREIDIN: I think an hour on Panel 1,  
3 an hour on Panel 2, a half a day on 3, a half a day on  
4, and a day on 5.

5                   MADAM CHAIR: Mr. Hunter, how many - that  
6 adds up just quickly to four days of cross-examination.  
7 How much did you figure into your overall nine days?

8                   MR. HUNTER: For what, Madam Chair?

9                   MADAM CHAIR: For cross-examination.

10                  MR. HUNTER: Oh, when I worked my  
11 schedule through?

12                  MADAM CHAIR: Uh-huh.

13                  MR. HUNTER: It wasn't that dissimilar  
14 from what has been presented, except for Panel 5. I  
15 had not thought that -- well, a day from the industry  
16 and a day from MNR.

17                  MADAM CHAIR: And Mr. Martel has pointed  
18 out that the Board would stay over on October the 10th,

19                  MR. MARTEL: 13th. Pardon me.

20                  MADAM CHAIR: The 10th. We could stay  
21 over the 10th and the 11th, if need be. If more time  
22 were required at the end for 5, then we have those days  
23 built into the schedule.

24                  MR. HUNTER: At the threat of earning  
25 your wrath, it's either your wrath or my family's

1           wrath, we have a commitment on Thanksgiving.

2           MADAM CHAIR: Oh, is that Thanksgiving?

3           MR. HUNTER: That's the commencement of  
4         the Thanksgiving weekend.

5           MADAM CHAIR: 11th.

6           MR. MARTEL: Oh, we understand that.

7         We're just trying to be helpful.

8           MADAM CHAIR: That's the weekend.

9           MR. HUNTER: I don't see anybody else  
10      helping me on that.

11          MR. CASSIDY: Well, I'm prepared to stay.

12          MADAM CHAIR: Thanksgiving is that Monday  
13      the 14th.

14          MR. MARTEL: It's the thought of going up  
15      there for a half day.

16          MR. FREIDIN: We understood that  
17      sacrifices were traditional.

18          MR. HUNTER: Well, that certainly I think  
19      would pressure everybody to complete it by the 10th and  
20      I would rather hold everybody's feet to the fire and  
21      let's get along.

22          MADAM CHAIR: Well, that's what we'll  
23      certainly do. What about the 4th, if we can --

24          MR. HUNTER: I'm much happier to do that.

25          MADAM CHAIR: If we found we were falling

1        behind in the cross-examination of 4 we could put in  
2        that Friday. We shouldn't. Nine days should be  
3        enough.

4                    MR. HUNTER: Why don't we plan on the  
5        weekend. I'm sure Mr. Cassidy would be more than  
6        pleased to cross-examine on Saturday.

7                    MADAM CHAIR: The 5th and 6th.

8                    MR. MARTEL: We would have no one there.

9                    MR. HUNTER: I see. The 5th will be  
10        fine.

11                  MADAM CHAIR: The 4th rather.

12                  MR. HUNTER: Sorry, the 4th will be fine.

13                  MADAM CHAIR: If we find that the  
14        cross-examination --

15                  MR. HUNTER: I think it would be -- if we  
16        were going to go to the 11th, I would suggest you would  
17        have to be making your reservations to get out of  
18        Thunder Bay right this minute. It may in fact be too  
19        late to get a flight out on the 11th.

20                  MADAM CHAIR: Well, let's look at a date,  
21        hopefully we will leave October 4th--

22                  MR. HUNTER: I think that's an excellent  
23        suggestion.

24                  MADAM CHAIR: --to accommodate the  
25        process.

1                   MR. HUNTER: That would go extremely  
2                   well.

3                   ---Discussion off the record

4                   MR. HUNTER: Well, the other option is,  
5                   if you have the energy, we could go later at night if  
6                   you want to schedule some evenings.

7                   MR. MARTEL: It depends on Mr. Freidin.  
8                   It rests with Freidin.

9                   MR. FREIDIN: Oh.

10                  MR. MARTEL: The one day on Panel 5.

11                  MR. FREIDIN: Or Mr. Cassidy.

12                  MR. MARTEL: No, no, he's only got -- oh,  
13                  he's got a day too, well...

14                  MR. FREIDIN: Why don't we just proceed  
15                  and just see how it goes.

16                  MR. MARTEL: Things work themselves out  
17                  well when you're fighting the plot.

18                  MR. FREIDIN: You know I've shortened my  
19                  cross-examinations in the past.

20                  MADAM CHAIR: Yes.

21                  MR. FREIDIN: It may happen again.

22                  MADAM CHAIR: Well, as it stands, Mr.  
23                  Hunter, we are scheduled to finish your case on October  
24                  the 10th. Okay.

25                  MR. HUNTER: Yes.

1                   MADAM CHAIR: Which is three weeks  
2 earlier than we had originally scheduled. We're  
3 certainly not complaining.

4                   MR. HUNTER: Do you want me to extend  
5 that?

6                   MADAM CHAIR: We're not complaining, Mr.  
7 Hunter. We're not complaining.

8                   MR. MARTEL: No, no. We're not asking  
9 for more.

10                  MADAM CHAIR: All right, very good.  
11                  Do any of the other parties have  
12 questions of Mr. Hunter?

13                  MR. CASSIDY: I have one question. The  
14 reference to presenting the chart confuses me a little  
15 bit. Is this chart going to be reporting on the  
16 results of negotiations which are presently ongoing  
17 between the parties pursuant to the negotiation process  
18 we're doing in this hearing?

19                  If so, my understanding is that those are  
20 confidential negotiations which were going to be  
21 reported to the Board by way of a report from the  
22 mediator and not by any of the parties.

23                  MADAM CHAIR: Please remind the Board,  
24 Mr. Cassidy, of the date that was set for the first  
25 report from the negotiations.

1                   MR. CASSIDY: I would have to refresh  
2 myself on that as well, Madam Chair. I think it was in  
3 the fall, October or November.

4                   MADAM CHAIR: I don't think it was that  
5 late.

6                   MR. CASSIDY: I thought our reply was in  
7 three weeks.

8                   MADAM CHAIR: Mr. Martel and I think it  
9 was a date in September. So the negotiations are  
10 continuing, is that what the Board's to --

11                  MR. MARTEL: You're going to negotiate  
12 everything off the table?

13                  MR. FREIDIN: Daily.

14                  MADAM CHAIR: Daily.

15                  MR. CASSIDY: Well, as I indicated, Mr.  
16 Martel, it was my understanding that those negotiations  
17 were confidential and subject to a report by the  
18 mediator.

19                  MADAM CHAIR: The Board will ask Mr.  
20 Pascoe to revisit past rulings on this matter and  
21 remind the Board and the parties of when we have  
22 scheduled the report of the negotiations.

23                  MR. HUNTER: With respect to Mr.  
24 Cassidy's comments, as I spoke I realized there might  
25 be some difficulty. What I had hoped to do at least

1 was present those areas where there was agreement as  
2 between ourselves, MNR and the forest industry, but  
3 that may come with some difficulties. All I'm  
4 concerned about is facilitating presentation.

5 It seems to me that where we have reached  
6 agreement as between the parties, then we should  
7 indicate to the Board where that agreement exists and  
8 the basis for the agreement and to provide to the Board  
9 a necessary level of evidence if the purpose of that  
10 exercise was to facilitate the hearing, but the Board  
11 ought to be, in my view, in the possession of  
12 sufficient evidence - even if there is agreement  
13 amongst the parties - so they can make their decision.

14 Now, the Board may say: Well, fair  
15 enough but we want more evidence, and that's something  
16 you have to think about. I wanted to basically  
17 streamline the panel.

18 MADAM CHAIR: Well, the idea of the  
19 negotiations is that the Board would want the parties  
20 to focus the evidence on areas of dispute, not  
21 agreement.

22 MR. HUNTER: Yes, exactly.

23 MADAM CHAIR: You don't have to spend a  
24 lot of time telling us where things are agreed because  
25 we will get your final combined documents in front of

1 us as to which conditions you agree on, but where you  
2 see in Panel 5 all the areas that are in dispute, that  
3 is what the Board is going to be looking very hard at,  
4 Mr. Hunter.

5 MR. HUNTER: I appreciate. All I was  
6 trying to do was answer Mr. Cassidy's point. In order  
7 to facilitate the presentation I have to say, assume  
8 there's 50 terms and conditions, we have general  
9 agreement on 30 and the other ones we are going to  
10 present was fairly cursory. That means that there are  
11 20 which are in dispute.

12 So regardless, we have to sort of say:  
13 Well, here is the status of the negotiation, otherwise  
14 there's no point to the exercise. This is something we  
15 are going to have to come to grips with.

16 MADAM CHAIR: Well, hopefully you will  
17 discuss that with Mr. Freidin and Mr. Cassidy so that  
18 the negotiations don't go off the rails with respect to  
19 talking to the Board about some matters that you will  
20 negotiate, but the timing might be delicate with  
21 respect to the timing of your evidence.

22 But we certainly appreciate you telling  
23 us where you cannot present much evidence because you  
24 feel comfortable that certain terms and conditions are  
25 being satisfied in the negotiation.

1                   MR. HUNTER: That's right, and that is  
2 why I was presuming the nature of the evidence. Based  
3 upon our discussions and our understanding there are  
4 some areas where there is substantial agreement,  
5 therefore, why spend a lot of time on that, because  
6 you're going to have that position before you.

7                   MADAM CHAIR: Right.

8                   MR. HUNTER: The only point I would wish  
9 to make, and it is a source of some embarrassment, the  
10 document that was filed with you, perhaps that could be  
11 returned to Mr. Pasce and returned to --

12                  MADAM CHAIR: Well, it doesn't make any  
13 sense to us anyways, so...

14                  MR. HUNTER: No. Thank you.

15                  MR. CASSIDY: I have one other question,  
16 in fact it's for the Board, Madam Chair.

17                  You referred to a press release dated  
18 August 6th, 1991 and you were asking about how it  
19 relates to some of Mr. Hunter's evidence, and I don't  
20 always get press releases from a variety of places and,  
21 as much as you referred to it, would it be possible for  
22 Mr. Pascoe to provide me with copy of that?

23                  MADAM CHAIR: Of course.

24                  MR. CASSIDY: Thank you, Madam Chair.

25                  MR. HUNTER: Excuse me.

1                   MADAM CHAIR: Ms. Gillespie, if you want  
2        a copy?

3                   MS. GILLESPIE: Yes, I would, thank you.

4                   MADAM CHAIR: Mr. Freidin, it's from your  
5        clients office but you can certainly --

6                   MR. HUNTER: And if I might ask Mr.  
7        Cassidy if either he or Mr. Cosman and I can talk about  
8        one of the questions to Panel 4, the first question  
9        with respect to Panel 4 in the statement of issues.

10                  MADAM CHAIR: Would you like to talk  
11        about that in this forum, Mr. Hunter?

12                  MR. HUNTER: No, we don't have to. I  
13        just wanted to indicate that I wanted to chat with, Mr.  
14        Cosman?

15                  MR. CASSIDY: (nodding affirmatively)

16                  MADAM CHAIR: All right. Mr. Cassidy,  
17        did you say Mr. Cosman is cross-examining?

18                  MR. CASSIDY: As it presently stands, and  
19        this is subject to some debate, Mr. Cosman will be  
20        cross-examining with respect to Panel 4 and Mr. Douglas  
21        Hunt, whose name I mentioned to the Board on previous  
22        occasions, is scheduled to cross-examine with respect  
23        to Panel 5 and I will leave it at that. It may change,  
24        but I don't know.

25                  MADAM CHAIR: Thank you, Mr. Cassidy.

1                   MR. CASSIDY: I'm sorry, Madam Chair, I  
2 will be dealing with Panel 3.

3                   MADAM CHAIR: All right, thank you.

4                   Mr. Freidin, do you have anything to say  
5 to Mr. Hunter or anything clarifications?

6                   MR. FREIDIN: I want to speak to Mr.  
7 Hunter about accommodation and the life in Sioux  
8 Lookout. I understand he's generally familiar with  
9 that. Other than that, I'm finished.

10                  MADAM CHAIR: All right. Any other  
11 details we should discuss, Mr. Hunter, or are we  
12 prepared?

13                  MR. HUNTER: No, no, I think if I might  
14 be excused, unless there's a question, I have a cab...

15                  MADAM CHAIR: We're all finished and we  
16 will see you in Sioux Lookout on the --

17                  MR. HUNTER: 25th of September.

18                  MADAM CHAIR: Now, it says 9:00 a.m.  
19 we're starting. Is that -- on the Wednesday.

20                  MR. HUNTER: You don't have to -- given  
21 the amount of cross-examination --

22                  MADAM CHAIR: Oh, right, we have a public  
23 hearing that night. That's why we're there. I  
24 understand.

25                  MR. CASSIDY: Madam Chair, you just

1       reminded me of something I thought I should mention to  
2       the Board, and this is purely -- I'm not going to  
3       suggest you go on any tours again.

4                    MR. MARTEL: Why not?

5                    MR. CASSIDY: But it's been brought to my  
6       attention that the recent blowdown which occurred, I'm  
7       told over a 1,500 square kilometre area in northwestern  
8       Ontario is accessible from Sioux Lookout by  
9       approximately a half hour helicopter ride or less and  
10      it could be seen in half a day, and I simply raise that  
11      for anybody who is interested.

12                  If they wish to witness the devastating  
13      extent of that blowdown, if they would make that  
14      interest known, I'm sure the MNR would be in some  
15      fashion able to accommodate you.

16                  MADAM CHAIR: We saw a very large  
17      blowdown on our last -- in the Dryden area.

18                  MR. CASSIDY: I'm advised - without  
19      giving evidence, that's the Boise blowdown, and I'm  
20      also advised that there's an emergency amendment  
21      planning process underway to accommodate that which  
22      people could view or be available to hear a  
23      presentation from in the Sioux Lookout area.

24                  I simply leave that with you. I know you  
25      have a busy schedule, but it's there for you to think

1       about if you wish to make those arrangements.

2                     MADAM CHAIR: Thank you, Mr. Cassidy.

3                     MR. FREIDIN: In the same vein, in terms  
4       of the time gap we talked about before, if the Board --  
5       if there's something the Board believes it would like  
6       to see in terms of site visits, Mr. Pascoe should  
7       contact us and I'm sure we could, with the right amount  
8       of lead time, arrange that sort of activity.

9                     But you have done a lot of flying and  
10      you've seen a lot of things, so I leave that with you.

11                  MADAM CHAIR: Thank you, Mr. Freidin.

12      Thank you, Mr. Hunter.

13                  MR. HUNTER: Thank you.

14                  MADAM CHAIR: See you on September 25th.

15                  MR. HUNTER: Thank you.

16      ---Whereupon the hearing was adjourned at 3:45 p.m., to  
17      be reconvened on Wednesday, September 11th, 1991,  
18      commencing at 1:30 p.m.

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25      BD [C. copyright 1985].









